Quarterly Report

OF THE

ATTORNEY GENERAL

OF

ALABAMA

FOR THE PERIOD

FROM JULY 1, 1977
THROUGH SEPTEMBER 30, 1977

WILLIAM J. BAXLEY, Attorney General

VOLUME 168

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QUARTERLY REPORT

of the

ATTORNEY GENERAL

of

ALABAMA

For the Period

From July 1, 1977

Through September 30, 1977

TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS OF ALABAMA:

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General form July 1, 1977 through September 30, 1977, is published in compliance with the provisions of Title 55, Section 228 Code of Alabama, 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State, and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy district attorney of his county. The section also requires that I send a copy of this report to each district attorney and the chief executive officer of each incorporated municipality in the State.

The office of the Attorney General is anxious to render prompt and efficient service to the State, County, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

WILLIAM J. BAXLEY

Attorney General

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July 19, 1977

Honorable Coy Stacey

Mayor

Town of Excel

Excel, Alabama

Zoning — Ordinances — Mobile Homes

City may not enact ordinance imposing zoning regulations in its police jurisdiction.

Opinion by Asst. Atty. General Knight

Dear Mayor Stacey:

The Attorney General received your request for an opinion from this office concerning restricting the use of mobile homes in the police jurisdiction of your city.

You asked the following question

> Can the Town of Excel, Alabama, enact a zoning ordinance restricting the use of mobile homes or mobile home parks, located within the police jurisdiction of the Town of Excel, Alabama, but outside its City Limits?

Your question is to be answered in the negative.

The Alabama Supreme Court ruled in **Roberson v. City of Montgomery,** 285 Ala. 421, 233 So. 69 (1970) that while Title 37, Section 9, **Code of Alabama 1940,** Recompiled 1958, grants a city the power to enforce police and sanitary regulations in its police jurisdiction, this power does not extend to zoning regulations which are specifically provided for in other statutes. The Court said that in the absence of legislation providing otherwise, zoning regulations which are imposed on territory outside the corporate limits of a city are invalid.

Therefore, the Town of Excel may not enact a zoning ordinance restricting the use of mobile homes or mobile home parks outside the city limits but within its police jurisdiction.

If our office can be of further assistance, please do not hesitate to contact us.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

July 26, 1977

Mrs. Marjorie Wilson
c/o Probate Judge
Russell County Courthouse
Phenix City, Alabama 36867

BOARD OF REGISTRARS — COMPENSATION

Members of county boards of registrars are entitled to payment only when they themselves attend or serve each day upon the sessions of the board.

Opinion by Assistant Attorney General Ward.

Dear Mrs. Wilson:

This office is in receipt of your letter of April 5, 1977 in which you request an opinion as to whether a member of the Board of Registrars, in whose place a deputized non-member of the Board served for a day, may claim his regular compensation for that day and reimburse his substitute therefrom.

The applicable statutes in no way authorize substitute service by a nonmember for a temporarily absent member. Rather Title 17, §21, Code of Alabama 1940 (Recomp. 1958) states that members are to be appointed by the governor, auditor and commissioner of agriculture and industries. Title 17, §23, Code of Alabama 1940 (Recomp. 1958) states that vacancies are to be filled by that same board of appointment. Title 17, §25 requires that registrars be sworn into their position as judicial officers. Title 17, §34 states that a majority of the board shall constitute a quorum. The clear expression of these four statutes is that no one other than a duly appointed member of the board may serve in that capacity.

The rule of compensation of board members is, then, that expressed in Title 17, §§24 and 24(1), Code of Alabama 1940 (Recomp. 1958) as amended. Members of the board are entitled to compensation only for each day's attendance upon the sessions of the board. Any individual member who fails to attend the sessions upon any particular day, is not entitled to compensation for that day. See opinion to Probate Judge, Edward W. Enslen of Elmore County, Alabama, a copy of which is enclosed for your information.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

December 20, 1976

Honorable Edward W. Enslen
Judge of Probate
Elmore County Courthouse
Wetumpka, Alabama 36092

BOARD OF REGISTRARS — COMPENSATION

Members of county boards of registrars are entitled to payment only when they attend or serve each day upon the sessions of the board.

Dear Judge Enslen:

This is to acknowledge receipt of your letter of October 25, 1976 in which you requested an opinion as to the following question:

> "Are members of the County Board of Registrars entitled to receive payment for services as such, when in fact they did not actually serve on the date for which a claim for service is filed?"

The answer to your question is that the county board of registrars are entitled to payment only for days in which they actually work or serve.

This conclusion is mandated by the portions of Alabama law dealing with compensation for members of the county board of registrars. Specifically, Title 17, §24, (24(1) and 27(1), Code of Alabama 1940 (Recomp. 1958) provide that members of county board of registrars are entitled to compensation only for each day's attendance upon the sessions of the boards. Consequently, if individual members do not attend, perform services or serve a particular day upon the sessions of the board, they are not entitled to any payment for that day.

I trust this satisfactorily answers your question. If I can be of any further assistance, do not hesitate to let me know.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

July 29, 1977

Honorable Charles S. Blackledge
Supervisor
Bureau of Loans
State Banking Department
Montgomery, Alabama 36130

Banking — Consumer Credit Act — Loans

Additional loan made subsequent to that made under Alabama Consumer Credit Act discussed.

Opinion by Asst. Atty. General Kendrick

Dear Mr. Blackledge:

This will acknowledge your letter of July 19, 1977, said letter reading as follows:

> "Your opinion is respectfully requested relating to the application of the restrictions contained in Sections 14(11) and 16½ of the Alabama Small Loan Act, Act No. 374 (Title 5, Subsections 290(11) and 293, Code of Alabama) as applied to a lender licensed under both the Alabama Small Loan Act and the Alabama Consumer Credit Act, Act No. 2052, (Title 5, Sections 316-340).
>
> "Assume the following facts:
>
> "XYZ Loan Co. is duly licensed to make loans of $300 and less under Act No 374 and to make consumer loans of any amount under Act No. 2052. On January 1, 1977 XYZ makes a $2000 loan under No. 2052 to John Doe. On March 1, Doe requested an additional $300 from XYZ.
>
> "Question No. 1:
>
> "(a) Can XYZ make the $300 loan under Act No. 374 and at the rate allowed under that Act or,
>
> "(b) do the two loans have to be consolidated under Act No. 2052 or,
>
> "(c) do the two loans have to be consolidated under the provisions of Section 16½ of Act No. 374 and the rate governed by Section 60 or 61 of Title 9?"

The pertinent Sections are 14(11) and 16½ of the Alabama Small Loan Act of 1959, setting out the following:

> "(11) No licensee shall induce or permit any person, or any husband and wife jointly or severally, to become obligated directly or contingently, or both, under more than one contract of loan at the same time, for the purpose of obtaining a higher rate of charge than would otherwise be permitted by this section. And it shall be unlawful for any licensee to evade, or attempt to evade this section by inducing a customer to borrow from another loan company in which he has a pecuniary interest or with whom he has an arrangement for exchange of customers."
>
> * * * * *
>
> "Section 16½. Loans of More Than Three Hundred Dollars ($300). If a licensee makes a loan in excess of three hundred dollars ($300), the charges authorized by this Act shall not apply to any part of the loan. The rates on the entire amount of the loan shall be governed by Section 60 or 61 of Title 9, Code of Alabama, 1940, as amended. The foregoing prohibi-

tion shall also apply to any licensee who permits any person, as borrower, or as endorser, guarantor, or surety for any borrower, or otherwise or any husband and wife jointly or severally, to owe directly or contingently, or both, to the licensee at any time a sum of more than three hundred dollars ($300) for principal. The supervisor may suspend or revoke the license of any licensee who violates this section, in the manner prescribed by Section 8 of this Act, and the penalties provided for in Section 23(c) of this Act shall apply to any person, firm or corporation violating this section."

Also, Section 18(f) of the Alabama Consumer Credit Act holds:

"(f) Any person licensed under the Alabama Small Loan Act as of the effective date of this Act may continue in business under the Alabama Small Loan Act but shall not make loans in excess of $300 unless such person is also licensed under this Act. The payment of the license and examination fees required by this Act shall be in lieu of the license and examination fees required by the Alabama Small Loan Act when the licensee is also licensed under the Alabama Small Loan Act."

The answer to your first question is clearly in the negative. It would appear that this is precisely the type of situation that Section 14(11) of the Small Loan Act was designed to address. That section would conclusively prohibit the making of a second smaller loan at a higher rate of interest.

A reading of the two Acts discloses no mandate that the two loans be consolidated under Act No. 2052. Therefore, my answer to 1(b) is in the negative. However, this would not preclude the borrower from refinancing the $2000 loan and the new loan consolidating the two under Act No. 2052, supra.

The answer to your third question is in the affirmative. Since Section 14(11) prohibits the making of a second loan at a higher rate of interest, the interest note of both loans is, pursuant to the express provisions of Section 16½, governed by the usury statute codified as Title 9, Section 60-70, Code of Alabama 1940, as amended.

Yours very truly.

WILLIAM J. BAXLEY
Attorney General

July 29, 1977

Mr. Fred E. Zeigler
State Comptroller
Department of Finance
Montgomery, Alabama 36130

Appropriations — Budget Officer should make allotment for expenditures for essential governmental functions when amounts are not described as "estimated" in appropriation bill.

Opinion by Assistant Attorney General Lurie.

Dear Mr. Zeigler:

Your inquiry of July 27, 1977, relating to allocation and expenditures of funds for essential functions of government, has been received.

It is noted that Act #763 (General Appropriation Bill), 1976 Acts, page 1047, does not appropriate funds for the operation of essential functions of government in certain instances in estimated amounts as previously has been done over the years. You ask whether or not the following expenditures may be made from the State general fund in addition to the specific amounts appropriated in said Act #763:

> "Advertising lands for taxes, court costs not otherwise provided for, court costs (criminal) election expenses, registration of voters, salaries for "supernumerary district attorneys, salary for district attorney in Seventh Judicial Circuit, and expenses for interpreters (Act No. 799, 1965 Regular Session)."

This office has ruled where essential functions of government are required to be performed either by statute, Constitution or court decree, that the amount specified in the appropriation bill shall be considered as estimated for the reason that the exact amount cannot be determined. This was construed to be the proper interpretation inasmuch as it was responsive to a federal court order relating to the feeding of prisoners.

In the matter at hand court costs of all kinds, election expenses and registration of voters would appear to fall in the same category and, therefore, the State Budget Officer is required to allot funds for the payment of these governmental expenses and for you, as Comptroller, to pay for such expenses.

Salaries for supernumerary district attorneys and the salary for the district attorney for the Seventh Judicial Circuit as well as expenses for interpreters (Act #799, 1965 Acts, page 1499) are provided for by specific act and the appropriation is made in such act; therefore, it is not necessary that the legislature appropriate further for same, hence the amount appropriated in said Act #763 may be increased or decreased to conform to the appropriation in each individual statute.

It is the further opinion of this office that expenditures for advertising lands for taxes fall within the category of essential functions assigned to the Department of Revenue or the State official operating under that department and the State Budget Officer may make allotments and the Comptroller may pay such costs as may be incurred.

The Supreme Court of Alabama several years ago in the case of Abramson vs. Hard, 155 So. 590, 229 Ala. 2, considered certain aspects of the appropriation bill and made the following pertinent observations:

"Again, there are appropriations made pursuant to constitutional requirement which just as manifestly were not intended to be, and which in fact could not be, prorated, but the full amount of which, by express constitutional provision, must be appropriated by the Legislature to the purposes specified in the Constitution. Of this character are appropriations for the compensation of members of the Legislature . . : the general school fund . . ; interest on funds of the University of Alabama covered into the treasury . . . ; the compensation of registrars . . . . ; salaries of the judges of the Supreme and circuit courts . . . and of the Governor and other executive officers . . "

". . . We may remark that Constitutions are interpreted by giving the words used their natural signification, and by regarding the order and grammatical arrangement in which they are placed; yet the interpretation is not alone abstractly considered by their words, 'but by their words read in the light of the conditions and necessities in which the provisions originated, and in view of the purposes sought to be attained and secured.' "

' ". . . It is conceded that no money can be drawn from the treasury, but in pursuance of an appropriation made by law, but it is not necessary, that there should be an act passed annually, for the appropriation: if there is a general law, fixing the salary, requiring it to be paid at the treasury, annually or quarter annually, this is sufficient.' "

It is obvious that the Legislature by the omission of the word 'estimated'; did not intend to cause a violation of any court decree or other official determination or cause the cessation of essential governmental functions. Hence, you are advised that funds for the categories of expenditure here under consideration should be made available.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

July 30, 1977

Honorable Charles Y. Cameron
Administrative Director of Courts
Administrative Office of Courts
800 South McDonough Street
Montgomery, Alabama 36130

JUDICIAL ARTICLE—TRAFFIC—MOTOR VEHICLES

For the purposes of utilizing the UTC only those in-

fractions under Title 36, Code of Alabama 1940, Recompiled 1958, are traffic infractions within the purview of Section 4-106(e), Act No. 1205, Acts of Alabama, Regular Session 1975.

Constables as provided for in Sections 28-37, Title 54, Code of Alabama 1940, Recompiled 1958, are law enforcement agencies within the purview of Section 4-106(e), supra.

The Department of Revenue is not charged with the enforcement of traffic provisions and is not a law enforcement agency within the meaning of Section 4-106(e), supra.

The "peace officers" of the Department of Revenue designated by the Commissioner of Revenue under Section 130(2), Title 51, Code of Alabama, 1940, Recompiled 1958, 1973 Cumulative Supplement have limited police authority to enforce the revenue laws only.

The "peace officers" of the Revenue Department are not required to utilize the UTC in enforcement of the revenue laws and the violations the officers enforce are misdemeanors.

Opinion of the Attorney General of January 5, 1977 addressed to Honorable K. K. Holmes, Clerk, Criminal Court of Jefferson County is herewith overruled and superseded insofar as the instant opinion is in conflict and especially concerning Sections 75, 75(2), 75(18) and 78, Title 36, Code of Alabama 1940, Recompiled 1958.

Opinion by Assistant Attorney General Burson.

Dear Mr. Cameron:

Your recent request for a formal opinion of the Attorney General stated, in part, as follows:

> "Although Section 4-106(e) of the Judicial Article Implementation Act defines a traffic infraction as any violation of laws relating to the operation of motor vehicles or the use of streets and highways by pedetstrians, we find, after discussions with the Department of Public Safety, that this definition is insufficient. We are specifically referring to traffic infractions contained within not only Title 36 of the Alabama Code, but other provisions such as those enforced by the Revenue Department which are contained within Title 51 of the Alabama Code. Because of the control characteristics of the uniform traffic ticket (UTC), we have been under the opinion that the UTC should be utilized for those infractions which are strictly involved with

considerations such as driver history records and the like. For this reason, we are of the opinion that traffic infractions for purposes of utilization of the UTC, are those infractions contained within Title 36 of the Alabama Code."

The four questions you posed were as follows:

"For purposes of utilization of the UTC, are traffic infractions, within the meaning of Section 4-106(e) of Act No. 1205, Acts of Alabama, 1975 Regular Session, limited to those infractions contained within the provisions of Title 36?

* * * *

"Are constables to be considered as 'a law enforcement agency' within the meaning of Section 4-106(e) of Act No. 1205, Acts of Alabama, 1975 Regular Session?

* * * *

"Is the Department of Revenue charged with the enforcement of traffic provisions so that the department must utilize the UTC; or, in the alternative, is the Department of Revenue not a law enforcement agency within the meaning of Section 4-106(e) of Act No. 1205, Acts of Alabama, 1975 Regular Session, chargeable with enforcement of revenue provisions so that this department shall not be required to utilize the UTC?

* * * *

"If, as required by Section 4-106(e) of Act No. 1205, Acts of Alabama, 1975 Regular Session, the UTC must be utilized for traffic infractions, would an infraction not contained on a UTC properly be treated as a misdemeanor?"

The answer to your first question is in the affirmative. Traffic infractions within the meaning of Section 4-106(e), Act No. 1205, Acts of Alabama, 1975 Regular Session are limited to those infractions contained within the provisions of Title 36, Code of Alabama 1940, Recompiled 1958. Likewise, however, it must be emphasized that not all violations of the law under Title 36 are traffic infractions. Specific attention is directed to Sections 75, 75(2), 75(18) and 78, Title 36 supra, which are concerned with the enforcement of the revenue laws of the state. There are other sections of Title 36, supra, which are not traffic infractions within the purview of Section 4-106(e), supra. Opinion of the Attorney General, January 5, 1977, addressed to Honorable K. K. Holmes, Clerk, Criminal Court of Jefferson County delineates the sections of Title 36, supra, which are deemed to be traffic infractions within the meaning of Section 4-106(e), supra. The delineation incorrectly includes as traffic infractions those violations included in 75, 75(2), 75(18) and 78, Title 36, (revenue law violations) and insofar as the above opinion of January 5, 1977, addressed to Mr. Holmes, is in conflict with the instant opinion, the prior opinion is overruled. Specifically, it is overruled as to the above sections, that is, Sections 75, 75(2), 75(18) and 78, Title 36, supra.

A cursory examination of the above four sections demonstrates that each is concerned with the enforcement of the revenue laws. Section 75 provides, in part, as follows: "Each and every motor vehicle operator who operates a motor vehicle upon any city street or other public highway of or in this state shall at all times keep attached and plainly visible on the rear end of such motor vehicle a license tag or license plate as prescribed and furnished by the department of revenue at the time the owner or operator purchases his license."

Section 75(2), supra, gives authority to the Commissioner of Revenue "full and continuing power to promulgate, from time to time with the approval of the governor reasonable rules and regulations governing the number, type or kind, size and method of placement and attachment of license tags, stamps, discs, plates or other devices to be attached to motor vehicle as evidence of the licensing and registration thereof; . . . ."

Section 75(18), supra, provides, in part, that: "The commissioner of revenue shall make such reasonable rules and regulations as may be necessary to administer the provisions of sections 75(17) - 75(19) of this title, including rules and regulations necessary to insure compliance with all state license laws relating to the use and operation of a private or pleasure motor vehicle and to provide for the application for and issuance of such special tags . . . ."

Section 78, supra, provides as follows: It shall be unlawful for any person to drive or operate any motor vehicle upon the streets or highways of this state, unless the tag license attached to the vehicle is of the proper classification as required by the revenue laws of this state. Any person violating this provision, upon conviction shall be punished as provided in section 51 of this title."

The purpose of Section 78, supra, is explained in annotation thereunder which cites Report of the Attorney General, 1928-30, p. 54. The annotation of the opinion is as follows:

> "The purpose of this section is to prevent the carrying on any vehicle over the highways of this state a load greater than that covered by the license as shown by the tag thereon."

It is reiterated that the above four sections of Title 36 are concerned with enforcement of the revenue laws and are not traffic infractions requiring the use of the UTC within the meaning of Section 4-106(e), supra.

Your second question is also answered in the affirmative. Constables are "law enforcement agencies" within the ambit of Section 4-106(e), supra. Sections 28-37, Title 54, Code of Alabama 1940, Recompiled 1958, are concerned with constables. Section 32, supra, provides as follows:

> Every constable is a conservator of the peace within that county."

The statement in Section 32 together with the other sections cited delineating the duties and responsibilities of constables demonstrate that constables are law enforcement agencies within the purview of Section 4-106(e), supra.

The answer to your third question is in the negative, that is, the Department of Revenue is not charged with the enforcement of traffic provisions and, therefore, is not required to use the UTC as provided for in Section 4-106(e), supra, and, likewise, the Revenue Department is not, in fact, a law enforcement agency within the purview of Section 4-106(e), supra. The Department has agents which are designated peace officers by the Commissioner of Revenue under the authority of Section 130(2), Title 51, Code of Alabama 1940, Recompiled 1958, 1973 Cumulative Supplement. These peace officers enforce the laws pertaining to revenue only. The laws they enforce include the sections in Title 36, supra, and Section 665(9), 665(49), 674, 719-742 and 834, Title 51, Code of Alabama 1940, Recompiled 1958.

Section 665(9), supra, is concerned with the enforcement of the motor fuel laws. Section 665(49), supra, is likewise concerned with the enforcement of the motor fuel laws administered by the State Department of Revenue. Section 674, supra, is involved with the transportation of gasoline over public highways which activity is regulated by the Department of Revenue. Sections 718-742, supra, are concerned with the enforcement of the Tobacco Sales Tax Law administered by the Department of Revenue. Section 834, supra, is concerned with penalty for failure to purchase a license as required under the various revenue laws.

The peace officers so designated by the Commissioner of Revenue do not have general police authority but only authority to enforce the sections enumerated in Title 36 and 51, above. Their authority is limited so that the Department is not charged with enforcing traffic infractions nor is the Department of Revenue a law enforcement agency within the purview of Section 4-106(e), supra.

The answer to your fourth question is in the affirmative. The "peace officers" of the Department of Revenue are not required to utilize the UTC since they are not officers of a law enforcement agency within the purview of Section 4-106(e), supra.

The violation of the above enumerated sections of Title 36 and Title 51, supra, constitute misdemeanors.

Very truly yours,

WILLIAM J. BAXLEY

Attorney General

August 31, 1977

Honorable T. D. Little
State Senator
P. O. Box 342
Auburn, Alabama 36830

Public Meetings Sunshine Law — School

Committee meetings should be open to the public.

Opinion by Asst. Atty. General Stephens

Dear Senator Little:

You have requested an opinion on the following question:

> "Can a duly appointed committee hold closed hearings on matters concerning administrative policy of schools and institutions of public education in the State of Alabama."

I assume that the "duly appointed committee" to which you referred is a committee appointed by administrative officials of the school or institution of public education.

It is my opinion that, in the absence of any law requiring or permitting such hearings to be closed, such hearings should be open to the public.

The traditional approach to answering questions such as you posed has been to review our statutory law, particularly Title 14, Section 393 of the Code of Alabama, to see if any such statutory provision requires the board, commission or committee, etc., to hold open meetings. Certainly, if a statute expressly requires a board or committee to hold open meetings then that board or committee must hold open meetings. However, an inquiry of this nature should not stop there and the absence of a specific statutory requirement that a particular board hold open meetings does not mean that the board is not required to hold open meetings.

It is my opinion that the principle of open meetings is inherent in our form of government. In an earlier opinion to the Honorable Russell Yarbrough, Councilman of the City of Birmingham, I observe that,

> ". . . in a democracy such as ours, government exists only to serve the public and government business is public business. Although governmental officials and employees may formulate and enact public policies and laws, ultimate governmental authority rests in the people themselves and, thus, the people have a right to be informed of the actions and operations of their government."

This essential principle which underlies the entire structure and ac-

tivity of our government is set forth in Section 2 of the Declaration of Rights of the Alabama Constitution. That section states, in part:

> "That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; . . ."

It is beyond doubt that in our country and in our state the people are sovereign and all elected and appointed governmental officials and employees are employed by and serve the public. Public officials and employees being in a very real sense public servants, the public has a right to know what its servants do with the authority and responsibility entrusted to them. Therefore, it should be assumed that board meetings, committee meetings, committee hearings, etc. are and must be open to the public unless there is specific statutory authority or reasons of compelling public policy which permit particular meetings to be closed to the public.

I hope and trust that this sufficiently answers your question.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

September 7, 1977

W. W. Haralson, Esquire
Assistant District Attorney
P.O. Box 338
Scottsboro, Alabama 35768

District Court — Small Claims Court

Corporation can be represented only by licensed attorney in Small Claims Division of District Court.

Opinion by Asst. Atty. General Lett

Dear Mr. Haralson:

We are in receipt of your letter wherein you ask:

> "Can a corporation file suit in the Small Claims Division of the District Court by or through an officer or agent of said corporation, other than an attorney, or be represented by such agent or officer in the Small Claims Court?"

It is the opinion of this office that your question must be answered in the negative for the reasons set forth below.

Title 13A, Section 4-103, **Code of Alabama 1940,** as amended [1975 Interim Supp.], establishes the Small Claims Division of the new District Courts established throughout Alabama:

> "The district court shall exercise exclusive jurisdiction over all civil actions in which the matter in controversy, exclusive of interest and costs, does not exceed five hundred dollars ($500.00). These actions shall be placed on a small claims docket by each district court and shall be processed according to uniform rules of simplified civil procedure as may be promulgated by the supreme court. (1975, No. 1205, §4-103, effective Jan. 16, 1977.)

Accordingly and in pursuance of the statutory mandate, the Alabama Supreme Court has adopted "Alabama Small Claims Rules" which became effective on 16 January 1976.

It should be noted that neither the foregoing statute or rules adopted in pursuance thereof makes mention of a **corporation** and whether it **must** be represented by counsel either as plaintiff or defendant. A report of the Advisory Commission on Judicial Article Implementation, 1 March 1975, Joseph F. Johnston, Chairman, however, recommended that an attorney "will be required for cases on the small claims docket only when the claimant is a corporation."

We must be guided by the decision of **Ex Parte Lambert,** 242 Ala. 165, 5 So. 2d 622 (1942) which is still "good law" in this state. The Advisory Report, supra, in adopting its recommendation, noted the decision in **Ex Parte Lambert.**

In **Ex Parte Lambert,** supra, the president of the Alexander City Bank, a corporation, filed a written appearance on behalf of the bank corporation in certain circuit court proceedings. The president of the corporate bank was not a licensed attorney. The Supreme Court held that a lay-agent i.e. non-licensed attorney could **not** appear and plead for the corporate bank.

The Court stated:

> "Article I, Section 10 of the Constitution which provides 'That no person shall be barred from prosecuting or defending before any tribunal in this state, by himself or counsel, any civil cause to which he is a party,' does not authorize a lay-agent to appear and plead for such party [cities omitted]". 5 So.2d at 623.

Apparently the Supreme Court recognized the long-standing distinction that a corporation, being an artificial person, could not appear in court. This distinction is still valid today. For a discussion of this issue generally, see, 19 A.L.R. 3d 1073, "Propriety and Effect of Corporation's Appearance Pro Se, Through Agent Who Is Not Attorney."

Sincerely,

WILLIAM J. BAXLEY
Attorney General

September 12, 1977

Mr. Charles Y. Cameron
Administrative Director of Courts
800 South McDonough Street
Montgomery, Alabama 36130

JUDICIAL ARTICLE IMPLEMENTATION — ACT NO. 1205 — JURY COMMISSIONS

Effect of Act No. 1205 on Jury Commissions and Jury Commission clerks discussed.

Opinion by Asst Atty. General Ward

Dear Mr. Cameron:

This office is in receipt of your letter of April 7, 1977 in which you asked numerous questions concerning county jury commissions and jury commission clerks under the Judicial Article and the Judicial Article Implementation Act, Act No. 1205, Acts of Alabama, 1975 Regular Session (hereafter Act No. 1205). Your questions will be answered in the order in which you presented them.

The first area of concern involves the payment of salaries to county jury commissioners and jury commission clerks. Specifically, you ask the following questions:

(1) Does the language of Section 16-103(b)(2) of Act No. 1205 specifically require the State to pay the salaries of jury commissioners and jury commission clerks?

(2) If it is determined that the State is responsible for these salaries, should the State be required to pay these claims under the provisions of both Title 30, Sections 12 and 15, and the provisions of local laws and general laws of local application?

It is clear that the State of Alabama became responsible for the salaries of the jury commissioners and jury commission clerks on January 16, 1977. This is unequivocally evidenced by two sections of Act No. 1205. Section 16-101 of Act No. 1205 provides that the operating expenses of the unified judicial system, except as otherwise provided in Act No. 1205, shall be paid by the State. Section 16-103(b)(2) explicitly provides that the State of Alabama shall be responsible, from January 16, 1977 forward, for the fees and expenses of jurors and jury commissions. Therefore, the State would be responsible for whatever salaries the jury commissioners and jury commission clerks were receiving on January 16, 1977. These salaries would include both the amounts provided for in Title 30, §§12 and 15, Code of Alabama 1940 (Recomp. 1958) as amended, and those amounts provided for under appropriate local laws and general laws of local application in effect on January 16, 1977. There would be no viable reason for the State, in light of the concept of the unified court system, to be responsible for only those

amounts stated in Title 30, §§12 and 15, supra, and not those additional amounts provided for under local acts and general laws of local application in effect on January 16, 1977, especially when Title 30, §§12 and 15 contemplate jury commissioners and jury commission clerks being paid additional salary pursuant to local acts and general bills of local application.

However, the State's responsibility is limited to those salaries that were being received by jury commissioners and jury commission clerks on January 16, 1977. This was the day these individuals were brought into the unified judicial system and their salaries as of that date became State expenditures. All local acts and general bills of local application dealing with jury commissioners and jury commission clerks' salaries passed since January 16, 1977 would be a supplement to this State expenditure and therefore payable out of the county treasury. Likewise, any local acts or general bills of local application dealing with jury commissioners and jury commission clerks' salaries which are passed in any future session of the Alabama Legislature would be supplements to the State expenditure and therefore payable out of the county treasury. Section 16-101 of Act No. 1205.

Your next set of questions deal with the effect of Section 6-117 of Act No. 1205 on local acts pertaining to salaries and expenses of jury commissioners and jury commission clerks passed in the 1976 and 1977 Regular Sessions of the Alabama Legislature. Specifically, you ask whether these acts are unconstitutional or invalid if they were not submitted to the administrative director of courts as outlined in Section 6-117, supra. I am of the opinion that the provisions of Section 6-117 do not apply to the local acts in question.

Section 6-117 provides that:

> "Whenever any bill is introduced in any session of the legislature which **pertains to the judiciary** which bill calls for local or less than statewide application, the clerk of the house of representatives or the secretary of the senate shall immediately deliver a certified copy of such bill to the administrative director of courts, who shall within ten days after receipt of such certified copy of said bill file an instrument in writing expressing an opinion pertaining to the constitutionality of such bill. Said instrument in writing shall be filed with the chairman of the house judiciary committee, chairman of the senate judiciary committee, clerk of the house of representatives and the secretary of the state senate." (Emphasis supplied)

However, the local acts to which you refer all dealt with the salaries and expenses of jury commissioners and jury commission clerks. These type acts do not "pertain to the judiciary" as contemplated in Section 6-117. It is significant to note that Section 6-117 does not use terms such as court personnel or personnel of the unified judicial system, said terms being used throughout Act No. 1205. Rather, Sec-

tion 6-117 specifically limits the process of submitting bills of local or less than statewide application to those which pertain to the "judiciary".

Finally, you ask who exercises control and supervision over jury commission members and jury commission clerks and employees in the jury commission office in light of the State's responsibility under Section 16-103(b)(2) of Act No. 1205.

I may begin by pointing out that many, if not all, of the jury commissioners and jury commission clerk's duties and responsibilities are already clearly defined by law. See Title 30, Code of Alabama 1940 (Recomp. 1958) as amended, specifically Title 30, §§8-29, Code of Alabama 1940 (Recomp. 1958) as amended. However, the State would exercise some control regarding the conditions under which jury commissioners and jury commission clerks are paid and over the purchase of supplies to perform their various duties. For instance, Title 30, §12, Code of Alabama 1940 (Recomp. 1958) provides that jury commissioners are only to be paid for days actually engaged in the discharge of their duties as members of the jury commission, payment being allowable only upon evidence satisfactory that such service has been rendered. Therefore, the State can require that jury commissioners be paid only for days actually engaged in the discharge of their duties upon satisfactory evidence to the State that such service has been rendered.

Moreover, Title 30, §15, Code of Alabama 1940 (Recomp. 1958) provides that jury commission clerks are to be paid for their services rendered under the direction of the jury commission while actually engaged in the performance of their duties. Therefore, the State can require that clerks of jury commissions be paid only for services rendered under the **direction of the jury commission** while actually engaged in the performance of their duties. This procedure is reinforced by Title 30, §19, Code of Alabama 1940 (Recomp. 1958) which expressly states that the clerks of the jury commission must give such time to the performance of their duties as may be **required by the jury commission.** (Emphasis added).

In connection with your question regarding the control the State can exercise over jury commissions and their clerks, you point out that this is an important area because there must be control over and approval for the purchase of supplies which are expenses the State is obligated to pay. The answer to this particular problem is found in Title 30, §26, Code of Alabama 1940 (Recomp. 1958). Prior to January 16, 1977, the judge of probate in every county, upon the request of the president of the jury commission, was required to purchase the necessary books in which to keep the jury rolls and the record of the proceedings and all necessary cards, stationary and things of all kinds required by the commission. In light of Section 16-103(b)(2) of Act No. 1205, I am of the opinion that the president of the jury commission must now request and receive from the State those items of supplies enumerated in Title 30, §26, supra.

I trust this satisfactorily answers all your questions. If not, please do not hesitate to let me know.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

September 13, 1977

Honorable Thomas B. Estes
Chief Deputy District Attorney
26th Judicial Circuit
P. O. Box 939
Phenix City, Alabama 36867

Docket Fees — Uniform Reciprocal Support Act — District Attorneys — Judicial Article

Discussion of payments of docket fee by the State in support cases.

Opinion by Assistant Attorney General Knight.

Dear Mr. Estes:

The Attorney General received your request for an opinion as to whether it is necessary that docket fees be prepaid in actions filed by the District Attorney for enforcement of court orders entered under the Uniform Reciprocal Enforcement Support Act.

The Uniform Reciprocal Enforcement of Support Act is found at Title 34, Article 4, Code of Alabama 1940, Recompiled 1958. As provided in Sections 113 and 114 of this Article, support actions are filed in the name of the petitioner. However, as seen in Section 112 of Article 4, the State in some cases may be the petitioner. This Section states that where the State or any of its political subdivisions has been furnishing support to a person to whom support is owed, it has the same right as that person to invoke the provisions of the Uniform Reciprocal Enforcement Support Act.

Section 119(b) of Article 4 states:

> "(b) A court of this state acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this state, including without limitation by enumeration, fees for filing, service of process, seizure or property, and stenographic service of both petitioner and respondent, or either, shall be paid by the state. Where the action is brought by or through the state or an agency thereof there shall be no filing fee. Security for costs may or

may not be required when the petition is filed by or on behalf of a non-resident dependent, as the court may in its discretion direct."

This Section states that the Court may in its discretion direct that the fees and costs (including the docket fee) incurred in a support case shall be paid by the state and that security for court cost is also in the discretion of the Court when a petition is filed by or on the behalf of a non-resident dependent. It further states that when an action is brought through or by the state or an agency of the state, there shall be no filing fee. Thus, the docket fee is to be paid by the petitioner where the action is brought in his name but when the court sees that this will work a hardship on the petitioner, or otherwise in the cases, it may direct that the State pay the docket fee on behalf of the petitioner. If the State is the petitioner, it pays no docket fee.

If our office can be of further assistance to you, please do not hesitate to contact us.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

September 13, 1977

Honorable Wayne Teague
State Superintendent of Education
State Office Building — Room 483
Montgomery, Alabama 36130

Boards of Education — Retirement Systems — Teachers

SYNOPSIS: The statutes governing the Teachers' Retirement System of Alabama do **not** permit local boards of education to pay from local funds the employer's share of retirement contributions of employees whose salaries are paid from federal funds.

Opinion by Asst. Atty. General Pappanastos

Dear Dr. Teague:

This will acknowledge receipt of your letter under the date of September 7, 1977, wherein you made the following inquiry:

"Does state law permit local boards of education to pay from local funds the employer's share of retirement contributions of employees whose salaries are paid from federal funds?"

The question must be answered in the negative.

Title 52 § 369(d), **Code of Alabama 1940,** (Recomp. 1958), (1973 Cum. Supp.), provides in pertinent part as follows:

> "(d) Where member contributions are made from salaries paid from federal funds the employer shall pay from federal funds to the Alabama special education trust fund the amount collected as a percentage of the salaries of those teachers to be contributed by the state as employer . . ."

The statutory mandate is clear, precise and unambiguous. Where employees, who are otherwise eligible for membership in the Teachers' Retirement System of Alabama (TRS), are paid from federal funds, the "employer cost or share" for such employees' retirement participation must also be paid from federal funds.

The legislative purpose and intent is fairly obvious in mandating this exclusive source of employer cost funding. Quite simply, the object seems to be to preserve the state and local funds of employers participating in the "TRS" by prohibiting the expenditure of such monies for the funding of the employer share of retirement, where the subject employees are paid from federal funds. The basis for this approach is that federal funds used to employ and pay personnel should also bear the full complement of employer-additive costs (for retirement) attributable to such employees, as is done, for example, with respect to social security.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

September 16, 1977

Honorable Guy L. Burns, Commissioner
Department of Pensions & Security
State of Alabama
64 North Union Street
Montgomery, Alabama 36130

Child Support — Social Security — Courts

Under existing federal and state laws for the enforcement of child support obligations, the court should order payments made through the Clerk of the court wherein such actions are brought, and the Clerk must receive monies for distribution to the proper parties. Opinion by Assistant Attorney General Durant.

Dear Commissioner Burns:

We received your request of 31 August 1977 for a formal opinion

regarding the obligations of judges and circuit clerks with respect to collections under the Child Support Enforcement Program instituted pursuant to Title IV-D of the Social Security Act of 1935 (P. L. 93-647). In your request, you posed the following questions:

> "Do Sections 98 and 100 of Title 34, **Code of Alabama 1940,** Recompiled 1958, or other sections of the Code require a judge to order that support payments be made through the court? "Once such an order is made, is the clerk of the court required to receive such payment for distribution according to the court order?

It is my opinion that the existing state and federal laws regarding child support require that a judge order payments made through the court and that those laws along with other state laws governing the responsibility of circuit clerks require circuit clerks to comply with such orders. This opinion is based not only on existing laws, but upon sound public policy as well.

Title IV-D (P. L. 93-647) was enacted by Congress as a 1975 amendment to the Social Security Act of 1935. As is the case with other essentially welfare programs which are implemented by the states pursuant to federal regulations, Title IV-D requires that each state adopt a plan for the enforcement of child support, and that such plan must provide for, among other things, the establishment by the State of the paternity of children born out of wedlock who are receiving public assistance, the securing of support for legitimate children who are receiving public assistance, and the collection of support payments by the State for distribution to the families only when "the amount collected is sufficient to make such family ineligible for assistance". [42 U.S.C. 602; 88 Stat. 2354]

The foregoing indicates that the federal and state authorities have joined in the assumption of a collection responsibility for children receiving public assistance. This assumption is fully justifiable inasmuch as amounts collected "shall be retained by the State to reimburse it for assistance payments to the family". [42 U.S.C. 657; 88 Stat. 2356]

Long before the adoption of federal child support legislation, the laws of the State of Alabama provided two chief means of adjudicating and enforcing the support obligations of parents outside the divorce context: Title 27, §12 et seq., **Code of Alabama 1940,** Recompiled 1958, providing for the establishment of paternity of illegitimates, and Title 34, §§90 et seq. providing for penalties for non-support. Section 98 of Title 34 states that the judge

> "may make an order . . . directing the defendant to pay a certain sum periodically to the clerk of said . . . court . . . for the use of . . . his child or children. . . ."

Moreover, Section 100 of Title 34 provides that whenever the defendant disobeys the support order recovery may be had on his bond,

> "and the sum or sums recovered thereon shall be paid to the clerk of said . . . court for the use of defendant's . . . children, **in the same manner as other money is herein provided to be so paid . . .**" [Emphasis supplied].

The import of the aforestated provisions is that the Legislature intended that collections be made through the Court via its Clerk. In view of the judge's discretion in ordering support, court collection may not be the exclusive means; however there are other considerations which probably invalidate the outright refusal of a judge to order court collection in welfare cases. The United States Supreme Court has consistently applied the Equal Protection Clause of the Fourteenth Amendment in eliminating discrimination against welfare recipients and against illegitimates. Specifically, in **Levy v. Louisiana,** 391 U.S. 68 (1968), and in **Weber v. Aetna Casualty and Surety Co.,** 406 U.S. 164 (1972), the Court indicated its intolerance for state impositions of disadvantages upon illegitimates. And in **Gomez v. Perez,** 409 U.S. 535 (1973), the Court invalidated Texas laws denying illegitimate children a judicially enforceable right to support from their natural fathers. It appears that a judge's refusal to order court collection solely on the basis of welfare status (or illegitimacy) — especially if the same judge readily orders court collections in divorce cases involving legitimate, non-welfare children — violates the Equal Protection Clause as well as the spirit of Titles 27 and 34.

Refusals by circuit clerks and/or registers fall squarely within the prohibition outlined above, where collections are made in non-welfare cases. A clerk, however, as a court officer subject to the supervision of the court, must comply with certain statutes and rules which delineate specific duties:

1. Rule 4 of the Rules of Judicial Administration requires clerks and registers to perform any duties "required by law, rule, [or] court order".
2. Title 13, §197, **Code of Alabama 1940,** Recompiled 1958, grants to circuit clerks the power to "receive the amount of any judgment rendered in the courts of which they are clerks . . .".
3. Title 13, §198(20) requires clerks to perform duties as are required of them by law.
4. The duties of clerks may be enforced by the contempt power under Rule 41 of the Rules of Judicial Administration and under Title 13, §2, **Code of Alabama 1940,** Recompiled 1958.

It is clear that a clerk must comply with a lawful order rendered in a competent court for the collection of child support.

Because the State of Alabama acts in its own best interests on behalf of its citizens in instituting paternity and non-support actions pursuant to Title IV-D, and because the failure of judiciary personnel to join in this contemplated mode of child support enforcement seriously

undermines those interests, there exists an irreproachable public policy in favor of court collection.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

September 16, 1977

Mr. James R. Raiford
State Budget Officer
State Capitol
Montgomery, Alabama

Unified Judicial System — Appropriation

Where revenue generated by Unified Judicial System insufficient to cover expenses, additional sum appropriated shall come from the general fund.

Opinion by Attorney General Baxley

Dear Sir:

The problem presented in your request of September 6, 1977 has been considered by the Supreme Court of Alabama.

A good many years ago (1879) in the case of Riggs v. Brewer, 64 Ala. 282, the court stated:

> "BRICKELL, C. J. — The statute (Code of 1876, §586) fixed the salary of the marshal and librarian of the Supreme Court, at two thousand dollars annually. The salary being thus fixed by a general statute, permanent in its nature, no special appropriation by the General Assembly was necessary, to entitle him to demand payment of it, nor to authorize the auditor to draw a warrant on the treasurer for its payment. The statute, of itself, operated as an appropriation, and satisfied the constitutional requirement that money shall be drawn from the treasury only upon appropriations made by law. Nichols v. Comptroller, 4 Stew. & P. 154; Reynolds v. Taylor, 43 Ala. 420. A subsequent statute, merely appropriating a "less sum than fixed as the salary by the general statute, would not operate a repeal by implication of the latter. — Reynolds v. Taylor, supra."

The Supreme Court in the case of Eagerton v. Graves, 40 So. 2d 417, 252 Ala. 326, considered the question of whether a general statute governing employment of additional clerks operates as an appropriation and included the following statement in their opinion:

"It is our view that section 175, Title 55 makes such provision for their employment and for their salary by the cooperation of the head of the department and the governor complying with the requirements there expressed. We are also of the opinion that the statute is an appropriation out of the State treasury of an amount necessary to pay those salaries. Riggs v. Brewer, 64 Ala. 282; Reynolds v. Taylor, 43 Ala. 420. It need not be of a definite amount. State, ex rel. Turner v. Henderson, Governor, 199 Ala. 244, 74 So. 344, L.R.A. 1917F, 770."

In the matter here under consideration Act #1205, 1975 Acts, page 2384, provides for salaries for various court officials in Section 4-114; Section 7-109(c), 7-110(c)(3), 7-114(a) and (b); Section 16-104; and Section 17-101. These sections all provide for appointment or election of court officials and set the salaries for each. The doctrine established by the Court as set out above clearly interprets these statutes in said Act #1205 as direct appropriations and the comptroller upon proper requisition should issue warrant on the State Treasurer for the payment of same.

No specific appropriation is necessary for the payment of the salaries in the general appropriation bill and none is contained therein. There is a bulk appropriation of $20,000,000 with supplemental appropriation of $791,179 (Act #636, 1977 Session—General Appropriation Bill). There is no legal basis for the increase or reduction of salaries provided by statute for public officials by the general appropriation bill and certainly there is no intention on the part of the legislature in said Act #636 to reduce the salaries provided by said statute by limitation on the amount of expenditure by the Unified Judicial System to the revenues collected pursuant to said Act #1205. Section 71 of the Constitution of Alabama of 1901 provides that "the general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the state, for interest on the public debt and for the public schools." There is no reference to salary expenditures in said Act #636 which would evidence any intent on the part of the legislature to increase or decrease salaries provided in the appropriation to the Unified Judicial System.

The Supreme Court of the State of Alabama in Abramson, et al. v. Hard, 155 So. 590, held that the expenses of the Judicial Department is a preferred claim upon the State's revenues and that the Judicial Department must be maintained as the essential basis of our form of government. The court further stated that "the compensation of judges had been protected since the Declaration of Independence, that instrument setting out as one of the usurpations charged against the King the fact that, 'he had made judges dependent on his will alone, for the tenure of their offices and the amount and payment of their salaries' ".

This office, in review of the problem presented and here under con-

sideration, recognized the generally accepted principle of law that where there is a misunderstanding, ambiguity, or apparent contradiction in statutes that they should be considered in such manner as to give force and effect to that part of each which was clearly intended. This office has been informed that the salaries alone for the operation of the Unified Judicial System would amount to approximately $17,000,000 for the next fiscal year; also, that the amount of anticipated receipts from the operation of said system will approximate $12,000,000. It is recognized by this office that the operation of the court system i nour State is essential and that a limitation on the expenditure for that purpose to the revenue received as a consequence of such operation as contained in said Act #636 would be a hindrance to the judicial system and in violation of Article VI of the Constitution of Alabama of 1901, as amended by Amendment No. 328. It is further our considered opinion that to give effect and a proper interpretation of both statutes and to insure the continuance of an essential function of government, that the amount of $20,791,179 as appropriated by the Legislature, may be expended and that the salaries and other expenses as provided in said Act #1205 shall be paid in full and any amount necessary in excess of the revenues collected pursuant to the provisions of said Act #1205 shall be paid from the general fund in the State Treasury.

You, as State Budget Officer, pursuant to the above conclusions, are authorized to make available for allotment and expenditure during the 1977-78 fiscal year the necessary funds in accordance therewith.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

September 19, 1977

Hon. Donald W. Stewart
Post Office Box 2182
Anniston, Alabama 36201

Credit Unions — Mini Code

Credit unions are regulated by Title 5, Section 316 et seq. Code of Alabama 1940, as amended known as the Mini Code.

Opinion by Asst. Atty. General Turner

Dear Senator Stewart:

This office is in receipt of your letter of January 24, 1977 in which you request an opinion as to whether the Mini Code applies to credit unions.

Title 5, Section 316(c) Code of Alabama 1940, as amended, states that "The provisions of this chapter apply to any such creditor, irrespective of his or its status as a natural person or any type of organization." That specific language was adopted from 15 U.S.C. (1602(f), The Consumer Credit Protection Act. The legislative history of the CCPA indicates an intent that the Act apply to credit unions. H.R. Rep. No. 1040 90th Cong., 2d Sess. 1968. We are of the opinion that the Alabama Legislature, in adopting the federal language, likewise intended as a general rule that its "Mini Code" apply to credit unions.

The only exception to this general rule would be those few areas in which the Mini Code is clearly inconsistent with, or in the case of federal credit unions, preempted by, pre-existing statutory or regulatory coverage. We find such inconsistency only as to interest rates charged by credit unions, which are regulated for state credit unions by Title 28, Section 296 Code of Alabama 1940, as amended, and for federal credit unions by 12 U.S.C. 1757(5). Title 5, Section 317 Code of Alabama 1940, as amended, is therefore not applicable to credit unions. All other provisions of the Mini Code, are applicable, except, of course, those which apply exclusively to licensees. (See Title 5, Section 340 and Title 5, Section 333, Code of Alabama 1940, as amended.)

Our previous opinion on this matter, 145 Op. Atty. Gen. 35 (1971) is hereby reversed.

I trust that this has satisfactorily answered your question. If I can be of further assistance, feel free to contact me.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

September 26, 1977

Honorable Walker Hobbie, Jr.
Judge of Probate
Montgomery County
Post Office Box 223
Montgomery, Alabama 36101

Probate Judges — License tags — motor vehicles.

The issuance of yearly motor vehicle tag decals has the same legal effect as the issuance of a yearly motor vehicle tag had under previous law.

Opinion by Asst. Atty. General Stephens.

Dear Judge Hobbie:

Your recent letter raised several questions concerning the legal effect of the implementation of Act No. 524 of the 1975 Session of the Alabama Legislature upon prior provisions of law, particularly upon Title 51, Section 706 of the Code of Alabama. Act No. 524 provides that motor vehicle tags shall be issued only every five years and that yearly decals shall be issued in other years in lieu of the issuance of a new tag. Title 51, Section 706 of the Code of Alabama places certain restrictions on the sale or transfer of the motor vehicle during a tax year. Specifically your questions are as follows:

> "a. When the 1978 decal is placed on the 1977 tag, is this not the same as issuing a new tag registration?
>
> "b. Are the following documents acceptable legal proof of vehicle ownerships: bill of sale (for vehicle 1974 models and older) and an Alabama Title (for 1975 models and later)?
>
> "c. When a vehicle is registered for the new tax year in the county of residence, does this constitute proper registration, even though the vehicle was registered in another county in the previous tax year and in a previous owner's name?"

The answer to each of your questions is yes. The issuance of the yearly decal provided for in Act No. 524 has the same legal effect as the issuance of a yearly tag did prior to the enactment of Act No. 524. Clearly, the legislature did not intend to alter any existing legal procedures by the enactment of Act No. 524 other than the yearly issuance of tags. Section 2 of Act 524, for instance, states that wherever the words "license tag" or "license plate" appear in any law these words shall be construed to mean the license plate with the appropriate decal affixed. The provisions of Title 51, Section 706 apply where a sale or transfer has occurred within a tax year but have no application to vehicle registration for the new tax year. Failure to comply with Section 706 subjects the person failing to comply to the penalties provided for a violation of that provision of law but does not prevent the grant of a new registration. See Biennial Rep. of the Atty. Gen., 1936-1938, p. 257, and Qt. Rep. of the Atty. Gen., Vol. 31, p. 60.

I hope that this sufficiently answers your questions.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

INFORMAL OPINIONS

During the period July 1, 1977 through September 30, 1977 the Attorney General rendered the following informal opinions.

Subject	Addressee	Date	File
	— A —		
ABC BOARD			
Wine Retailers—"Profit" to ABC Board	Thomas Jeff Davis	Aug. 16	ABC BOARD
ACCOUNTANTS			
Public Accountancy Board—Non Residents	J. G. Robertson	Sept. 8	Public Accountancy Bd.
AD VALOREM			
Mobile County—Ad Valorem Constitutional Amendment	Thornton Price-Williams	Aug. 3	254
Foreign Corporation—Ad Valorem Reappraisal	J. Gorman Houston	July 18	428
ADVERTISEMENTS			
Optometrists—Advertising	Alton L. Turner	Aug. 17	Optometry, Board of
AGRICULTURAL CENTER BOARD			
Running Track Repair—Garrett Coliseum—No Bids	Aubrey H. Fleming	Aug. 17	321
AGRICULTURE, DEPARTMENT OF			
Pesticide Applicators—Certification	McMillan Lane	July 22	Agriculture Department
Cattle Theft Investigators—Peace Officers	McMillan Lane	Sept. 8	Agriculture Department

ALABAMA COMMISSION ON HIGHER EDUCATION			
A.C.H.E.—Housing Allowance	G. Sage Lyons	Sept. 28	A.C.H.E.
ALABAMA PUBLIC TELEVISION NETWORK			
Public TV—Terminal Site	William E. Swatek	July 11	APTN
ALBERTVILLE, CITY OF			
City of Albertville—Merit System	Jimmy F. Carnes	July 2	299
ALCOHOLIC BEVERAGES			
City Police Power—County Line	Mrs. David Sconyers	Aug. 12	381
AMBULANCE SERVICE			
Counties—Ambulance Service	Cartledge W. Blackwell	July 21	10
APPEALS			
Prisoners—Jail Time Credit	Ray Bozeman	July 15	433
APPROPRIATIONS			
Legislative Appropriation—District Attorneys	John D. Whetstone	July 27	Prosecution Service
ARCHITECTS			
Classroom Construction—Architecture	Robert M. Hill, Jr.	Sept. 27	410
Building Commission—Architectural Services—Reimbursement	Hugh Adams	July 11	Building Comm.
ARRESTS			
Arrest Warrant—Must Be Original	Melvin Bailey	Aug. 17	142
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BARBER EXAMINERS BOARD			
Barber Examiners—Authority	Ray McDaniel	July 11	Barber

Subject	Addressee	Date	File
BIRMINGHAM, CITY OF			
Retirement—Municipalities—Comprehensive Employment Training Act	David Vann	Sept. 14	Examiners 405
Birmingham Water Works—Water Rights—Cahaba River	Jack E. Ravan	Aug. 9	185
BLOUNT COUNTY			
Blount County—Deputy Sheriffs—Salary	Frank Green	Aug. 23	291
BOARDS OF EDUCATION			
Superintendent of Education—No Tenure	A. M. Bailey	July 20	308
Boards of Education—Authority	Delmer Duboise	Aug. 16	317
Board of Education—Easement for School Access	Clifford S. Smith	July 22	298
Board of Education—Office of Profit Discussed	Clifford S. Smith	Aug. 1	298
Teachers—Extra Employment	Paul R. Hubbert	Aug. 11	AEA
Boards of Education—Requirement for Professional Training	Wayne Teague	Aug. 16	Education Dept.
County Board of Education—No Special Prosecutor	J. C. Chisolm	July 20	380
School Board—Bond Debt	Richard McBride	Aug. 24	388
County Board of Education—Unused Vacation	Don Walker	July 11	389
Calhoun County—Board of Education—Civil Service	Guy Sparks	Aug. 1	392
BOARDS OF EDUCATION			
Teacher Salary Supplements—Freezing of	Wayne Teague	Sept. 28	Education Dept.

BOARDS OF EQUALIZATION			
Reappraisal—Use all Available Information	James A. Carter	Aug. 11	343
Coffee County—Board of Equalization—Compensation	James L. Sawyer	Sept. 8	397
BOARDS OF REGISTRARS			
Board of Registrars—Clerical Help	Horace S. Merrill	July 25	24
Voter Records—Responsibility	Sam A. Massingill	July 22	344
Voting—Precinct of Registration	Lonnie Hilley, Sr.	July 6	348
Boards of Registrars—Voting—Voter Residence	Mrs. Ann Bell	July 25	337
BONDS			
School Board—Bond Debt	Richard McBride	Aug. 24	388
Performance Bond—Public Construction	John S. Foster	Sept. 27	418
BUILDING COMMISSION			
Building Commission—Architectural Services—Reimbursement	Hugh Adams	July 11	Building Comm.
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CALHOUN COUNTY			
Calhoun County—Board of Education—Civil Service	Guy Sparks	Aug. 1	392
CANDIDATES			
County Employee—Candidate for Office	Geo. D.H. McMillan, Jr.	Aug. 22	376
CHAMBER OF COMMERCE			
Chamber of Commerce—City Contract	William M. Bouldin	Aug. 2	179
CHILTON COUNTY			
Sheriff—Process Server	John Hollis Jackson, Jr.	July 20	176

Subject	Addressee	Date	File
CHOCTAW COUNTY			
Choctaw County—Sheriff—Insurance	Donald Lolley	Aug. 30	358
CIRCUIT CLERKS & REGISTERS			
Circuit Clerk—County Expense Allowance	Lee M. Otts	July 11	347
District Judge—Fine and Forfeiture Fund	Bobby T. Branum	July 5	361
Circuit Clerks—Expense Allowance	Allen L. Tapley	Sept. 23	Court Mgt.
Retirement—Clerks and Registers	Glenn Murphy	July 22	345
CLAIMS			
District Judge—Fine and Forfeiture Fund	Bobby T. Branum	July 5	361
CLAY COUNTY			
Clay County—Probate Judge—Compensation	C. W. Carpenter	Sept. 1	394
COFFEE COUNTY			
Coffee County—Board of Equalization—Compensation	James L. Sawyer	Sept. 8	397
COLLEGES & UNIVERSITIES			
Liability Insurance—Livingston University	Asa N. Green	July 8	119
Colleges—Land Dedication—Public Recreation	Wayne Teague	Sept. 29	Education Dept.
COMMUNITY DEVELOPMENT PROGRAM			
Competitive Bid Law—Change Order	A. J. Cooper, Jr.	July 15	39
COMPENSATION			
Industrial Relations—Fraud Investigators	Tom J. Ventress	Aug. 17	Industrial Rel.
Board of Registrars—Clerical Help	Horace S. Merrill	July 25	24

Tax Assessor—Fayette County—Plat Book Fees	A. A. Nichols	July 5	374
Clay County—Probate Judge—Compensation	C. W. Carpenter	Sept. 1	394
Mobile County—Racing Commission—Compensation	Maury Friedlander	Sept. 3	91
A.C.H.E.—Housing Allowance	G. Sage Lyons	Sept. 28	A.C.H.E.
Expense Allowance—District Judges	C. S. Tidwell	July 22	335
COMPETITIVE BID LAW			
Running Track Repair—Garrett Coliseum—No Bids	Aubrey H. Fleming	Aug. 17	321
Bid Law—Garbage Strike Private Contract	William Noble	Aug. 25	338
District Attorney's Fund—State Bid Law	John D. Whetstone	July 20	Prosecution Services
County Equipment—Bids on Lease	Jim Corley	Aug. 22	393
Certain Test Materials—Second Grade—No Bids	J. T. Waggoner, Jr.	Sept. 12	406
Classroom Construction—Architect	Robert M. Hill, Jr.	Sept. 27	410
County Hospital Construction—Bid Law	Hoyt Levie	Sept. 13	415
Supplies for Court System—Department of Court Management	Charles Cameron	July 11	Court Mgt.
Bids—State Agency May Not Re-Use	E. C. Dothard	July 11	Public Safety
Competitive Bid Law—Change Order	A. J. Cooper, Jr.	July 15	39
COMPREHENSIVE EMPLOYMENT TRAINING ACT (C.E.T.A.)			
Retirement—Municipalities—Comprehensive Employment Training Act	David Vann	Sept. 14	405
CETA Employees—Teacher's Retirement System	Julian O. Colquitt	Sept. 8	369

Subject	Addressee	Date	File
CONFLICTS OF INTEREST			
City Councilman—Power Company Employee	Paul W. Cole	Aug. 24	360
CONSERVATION DEPARTMENT			
State Park Managers—Subsistence Allowance	John Hodnett	Aug. 17	Conserv. Dept.
State Parks—Terms of Concession Contract	John Hodnett	Aug. 17	Conserv. Dept.
CONSTABLES			
Traffic Tickets—Constables	Nathan Nall	July 31	434
CONSTITUTION			
Salaries—District Attorneys—Constitution	John D. Whetstone	Sept. 22	Prosecution Serv.
CONSTITUTIONAL AMENDMENTS			
Constitutional Amendment—City Election—Combination	Wade H. Baxley	Aug. 5	312
Mobile Co.—Ad Valorem—Constitutional Amendment	Thornton Price-Williams	Aug. 3	254
CONSTITUTIONALITY			
St. Clair Co.—Personnel Appeals Act Void	Clemons Roe	Aug. 25	336
CONTRACTORS			
Classroom Construction—Architect	Robert M. Hill, Jr.	Sept. 27	410
CONTRACTS			
Change Order—Opelika Technical College	Robert G. Brown	July 15	306
School Construction Contract—Phenix City	Clifford S. Smith	July 12	298
Construction—Change Order—	Levi Watkins	July 20	316

Alabama State University			
Marion County Hospital—Management Contract	C. S. Tidwell	Aug. 2	335
Act No. 82, 1977 Acts—Nursing Home Contracts	Ira L. Myers	Aug. 25	Public Health
Livingston University—Construction Change Order	Asa N. Green	July 11	119
State Parks—Terms of Concession Contract	John W. Hodnett	Aug. 17	Conserv. Dept.
City Contract—Retarded School Children	John Newberry	Sept. 12	231
County Equipment—Bids of Lease	Jim Corley	Aug. 22	393
Act 82, 1977 Regular Session—Nursing Home Contracts	Ira L. Myers	Aug. 31	Public Health
Chamber of Commerce—City Contract	William M. Bouldin	Aug. 2	179
Performance Bond—Public Construction	John S. Foster	Sept. 27	418
Bids—State Agency May Not Re-Use	E. C. Dothard	July 11	Public Safety
Competitive Bid Law—Change Order	A. J. Cooper, Jr.	July 15	39
Jefferson County—Employees Annuity Contracts	Edwin A. Strickland	Sept. 29	88
COOSA COUNTY			
Coosa County—Deputy Sheriff	Veston Peters	Sept. 28	409
CORONERS			
Coroner—County Morgue	Lesley Vance	Sept. 6	396
County Coroner—Duties	Walker B. Sorrell	Sept. 12	416
CORRECTIONS, BOARD OF			
Act 600—Salary Increase Mandatory	Judson C. Locke, Jr.	Aug. 22	Corrections Bd.
COSMETOLOGY, BOARD OF			
Act 668, 1977 Acts—Effects Discussed	Billie Jehle	Aug. 30	Cosmetology Bd.

Subject	Addressee	Date	File
COUNTIES			
County Franchise—Garbage Collection	Ira L. Myers	Aug. 23	Public Health
County Equipment—Bids On Lease	Jim Corley	Aug. 22	393
County Funds—Cattle Gaps	Billy T. Hughes	Sept. 22	419
County Laws—Codification	H. W. Suddath	Sept. 14	421
County Funds—Golf Course	H. A. Alexander	Sept. 8	424
Counties—Ambulance Service	Cartledge W. Blackwell	July 21	10
Sales Outside County—Sales Tax	Grady Perry	July 7	84
Bridge Cost—Spans County Line	Glenn Reynolds	July 5	297
County Employee—Tort Judgment Against	Grady Perry	Aug. 17	84
Counties—Work-release Programs—Prisons and Prisoners	Tom Purvis	July 14	436
COURT MANAGEMENT			
Dept. of Court Management—Court Services Contract	Charles Y. Cameron	Aug. 31	Court Mgt.
Supplies for Court System—Dept. of Court Management	Charles Y. Cameron	July 11	Court Mgt.
COURT REPORTERS			
Court Reporters—Jefferson County—State Employees	Charles Y. Cameron	Sept. 13	Court Mgt.
— D —			
DEAF & BLIND, ALABAMA INSTITUTE FOR			
Deaf & Blind Institute—Employee as Trustee	W. A. Culberson	Aug. 9	314
DISTRICT ATTORNEYS			
Legislative Appropriation—	John D. Whetstone	July 27	Prosecution Serv.

District Attorneys			
Tuscaloosa County—Deputy D.A.—Pay Raise	Wayne Williams	July 22	330
D.A.'S Fund—State Bid Law	John D. Whestone	July 20	Prosecution Serv.
Baldwin County—D.A. Expenses	Jim Hendrix	Sept. 14	412
District Attorney—Employees	Orville J. Vandergriff	July 17	430
Salaries—District Attorneys—Constitution	John W. Whetstone	Sept. 22	Prosecution Serv.
DISTRICT ATTORNEYS FUND			
D.A.'S Fund—State Bid Law	John D. Whestone	July 20	Prosecution Serv.
Bullock Co.—Ass't D.A.—Salary	Louis C. Rutland	Aug. 22	383
DRIVER LICENSES			
Traffic Convictions—Microfilming OD	E. C. Dothard	Aug. 26	Public Safety Dept.
Drivers' Licenses—Juveniles—Anatomical Gift	Bill Smith	July 27	163

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EASEMENTS			
Board of Education—Easement For School Access	Clifford S. Smith	July 22	298
EDUCATION DEPT.			
Board of Education—Requirement for Professional Training	Wayne Teague	Aug. 16	Education Dept.
Certain Test Materials—Second Grade—No Bids	J. T. Warroner, Jr.	Sept. 12	406
Colleges—Land Dedication—Public Recreation	Wayne Teague	Sept. 29	Education Dept.
Veterans Affairs—Technical Colleges—Trade Schools	W. W. Wadsworth	Sept. 20	Veterans Affairs

Subject	Addressee	Date	File
EDUCATIONAL TELEVISION COMMISSION			
Public TV—Terminal Site	William E. Swatek	July 11	APTN
ELECTIONS			
Constitutional Amendment—City Election—Combination	Wade H. Baxley	Aug. 5	312
EMPLOYERS & EMPLOYEES			
State Pay Raise—Begins 10-7-77	Fred E. Zeigler	Aug. 26	Comptroller
State Employees—Travel Per Diem	Dan M. Gibson	Aug. 29	359
County Employee—Candidate for Office	Geo. D. H. McMillan, Jr.	Aug. 22	376
Capitol Guards—Cadet State Trooper Salary	Fred Jones	Sept. 28	83
Merit System Employees—Military Leave	Fred R. Jones	July 28	83
Jefferson County—Employees Annuity Contracts	Edwin A. Strickland	Sept. 29	88
District Attorney—Employee	Orville J. Vandergriff	July 17	430
Municipalities—Union Dues	Pat Boone	July 30	432
ETHICS COMMISSION			
Ethics Comm.—Surface Mining Reclamation Commission	Melvin G. Cooper	July 8	Ethics Comm.
EXEMPTIONS			
Greene Co. Greyhound Park—Tax Exemptions	Paul W. Bryant, Jr.	Aug. 4	310
Taxation—Sales Tax—Exemption for Those on Medicare	Bob Glass	Aug. 24	386
EXPENSES			
Circuit Clerk—County Expense Allowance	Lee M. Otts	July 11	347

State Employees—Travel Per Diem	Dan M. Gibson	Aug. 29	359
Franklin County—Expense Allowance—District Judge	Joe Gilliland	Aug. 1	368
Talladega Co.—District Judges—No Expenses	Wesley Smith	Aug. 10	378
Coffee Co.—Board of Equalization—Compensation	James L. Sawyer	Sept. 8	397
Meals at Meeting—City May Pay	W. R. Payton	Sept. 14	52
Baldwin Co.—D.A. Expenses	Jim Hendrix	Sept. 14	412
Circuit Clerks—Expense Allowance	Allen L. Tapley	Sept. 23	Ct. Mgt.

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FEES

Tax Assessor—Fayette Co.—Plat Book Fees	A.A. Nichols	July 5	374

FILING TAX

Mortgage Tax—Debt Extended	John L. Moore	Aug. 4	249

FINANCE, DEPT. OF

Printing Costs—May Be Paid	James R. Raiford	July 14	Finance Dept.
State Pay Raise—Begins 10-7-77	Fred E. Zeigler	Aug. 26	Comptroller
Supplies for court system—Dept. of Court Management	Charles Y. Cameron	July 11	Court Mgt.

FINE & FORFEITURE FUND

District Judge—Fine & Forfeiture Fund	Bobby T. Branum	July 5	361

FRANCHISES

County Franchise—Garbage Collection	Ira L. Myers	Aug. 23	Public Health

FUNDS

Printing Costs—May Be Paid	James R. Raiford	July 14	Finance Dept.

Subject	Addressee	Date	File
Bridge Cost—Spans County Line	Glenn Reynolds	July 5	297
Little League—No City Funds	Kern Silvey	Aug. 11	385
City Work—Reimbursement	D. B. Smith	Sept. 14	398
City of Thomasville— Industrial Development Board	Edmon H. McKinley	July 27	402
County Funds—Cattle Gaps	Billy T. Hughes	Sept. 22	419
Town Funds— Industrial Park—Historical Sites	Creel Richardson	Aug. 9	426
Medical Clinic Boards—Physicians—Funds	Gene L. Hughes	July 13	226
Municipalities—Funds—Zoning	Maurice West	Aug. 11	315
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GADSDEN, CITY OF			
Gadsden—Policemen/Firemen Retirement Act	Kathleen M. Warren	Sept. 29	141
GENEVA COUNTY			
Geneva Co.—Expired School Tax	Wilbur Pridgen	Aug. 9	333
GREENE COUNTY GREYHOUND PARK			
Greene Co. Greyhound Park— Tax Exemptions	Paul W. Bryant, Jr.	Aug. 4	310
GREENE COUNTY RACING COMMISSION			
Greene County—Racing Commission	William M. Branch	Aug. 22	12
— H —			
HANCEVILLE, CITY OF			
Water Works Board— Dismissal of Superintendent	N.L. Plunkett	Sept. 28	400

HEALTH & HEALTH DEPTS.			
Mobile Co.—Ad Valorem Exemption—Act 278, 1976 Acts	Ken Malone	Aug. 11	322
HIGHWAY DEPARTMENT			
Revenue Dept.—Cost of Auto License Plates	Ray Bass	Sept. 27	Hwy. Dept.
HISTORICAL COMMISSION			
Live-In-Landmark—Printing	W. Warner Floyd	Aug. 7	Historical
HOSPITALS			
Marion County Hospital—Management Contract	C.S. Tidwell	Aug. 2	335
Health Facilities—Pickens County—Use of Revenues	Harold Davis	Aug. 11	404
County Hospital Construction—Bid Law	Hoyt Levie	Sept. 13	415
HOUSING AUTHORITIES			
Housing Authority—Vehicles—City Tags	David B. Cauthen	Sept. 14	422
HUNTSVILLE, CITY OF			
Gas Boards—No Loans to Customers	J. Robert Miller	July 13	431
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INDUSTRIAL DEVELOPMENT BOARDS			
City of Thomasville—Industrial Development Board	Edmon H. McKinley	July 27	402
INDUSTRIAL RELATIONS, DEPT. OF			
Industrial Relations—Fraud Investigators	Tom J. Ventress	Aug. 17	Industrial Relations
Industrial Relations—Unemployment Compensation	Tom J. Ventress	Aug. 3	Industrial Relations

Subject	Addressee	Date	File
INSURANCE			
Liability Insurance—Livingston University	Asa N. Green	July 8	119
Choctaw Co.—Sheriff—Insurance	Donald Lolley	Aug. 30	358
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JEFFERSON			
County Employee—Candidate For Office	Geo. D. H. McMillan, Jr.	Aug. 22	376
Court Reporters—Jefferson County—State Employees	Charles Y. Cameron	Sept. 13	Court Mgt.
Jefferson County—Employees Annuity Contracts	Edwin A. Strickland	Sept. 29	88
JUDGES			
Municipal Courts—Counsel	Geo. S. Harrington, Jr.	Aug. 17	356
Franklin Co.—Expense Allowance—District Judge	Joe Gilliland	Aug. 1	368
Talladega Co.—District Judges—No Expenses	Wesley Smith	Aug. 10	378
Expense Allowance—District Judges	C. S. Tidwell	July 22	335
JUDICIAL ARTICLE			
Circuit Clerk—County Expense Allowance	Lee M. Otts	July 11	347
Dept. of Court Management—Industrial Relations—Fraud Investigators	Charles Y. Cameron	Aug. 31	Court Mgt.
Franklin Co.—Expense Allowance—District Judge	Joe Gilliland	Aug. 1	368
Talladega Co.—District Judges—No Expenses	Wesley Smith	Aug. 10	378
Bullock Co.—Assistant	Louis C. Rutland	Aug. 22	383

District Attorney Salary			
Court Reporters—Jefferson County—State Employees	Charles Y. Cameron	Sept. 13	Court Mg.
Baldwin County—District Attorney Expenses	Jim Hendrix	Sept. 14	412
Circuit Clerks—Expense Allowance	Allen L. Tapley	Sept. 23	Court Mgt.
Expense Allowance—District Judges	C. S. Tidwell	July 22	336
Traffic Tickets—Constables	Nathan Nall	July 31	434
JUNKYARDS			
Junkyards—Municipal Function	J. H. Summerlin	Sept. 1	420
JUROR PAY			
Juror pay—Come from State Treasury	James W. Webb	Sept. 26	438
JURY COMMISSION			
Walker Co.—Jury Commission	Robert T. Crowe	Aug. 26	371
JUVENILE COURT			
Dept. of Court Management—Court Services Contract	Charles Y. Cameron	Aug. 31	Court Mgt.
JUVENILES			
Drivers' License—Juveniles—Anatomical Gift	Bill Smith	July 27	163
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LABOR UNIONS			
Unions—Dues Checkoff	William M. Flippo	Sept. 1	362
LAUDERDALE COUNTY			
Plumbers Board Authority—Lauderdale County	James F. Putman	July 2	437

Subject	Addressee	Date	File
LAW ENFORCEMENT			
Industrial Relations—Fraud Investigators	Tom J. Ventress	Aug. 17	Industrial Relations
State Park Managers—Subsistence Allowance	John Hodnett	Aug. 17	Conservation
Probation and Parole Officers—HB 1134—No Salary Increase	David H. Williams	Aug. 5	Pardons & Paroles
Cattle Theft Investigators—Peace Officers	McMillan Lane	Sept. 8	Agriculture Department
Municipalities—Union Dues	Pat Boone	July 30	432
LEASES			
Mental Health Board—Lease of Land—Northington Campus	Taylor Hardin	Aug. 23	Mental Health Department
LEGISLATION			
St. Clair Co.—Personnel Appeals Act Void	Clemons Roe	Aug. 25	336
County Laws—Codification	H. W. Suddath	Sept. 14	421
LEGISLATURE			
Interim Finance/Taxation Committee—Abolished	Alvin A. Holmes	July 14	116
LIABILITY			
County Employee—Tort Judgment Against	Grady Perry	Aug. 17	84
Volunteer Fire Dept.—Liability Outside City	A. Victor Guarisco	Aug. 29	355
Cities—Proprietary Functions—Tort Claims Limit	Gorman R. Jones, Sr.	Sept. 8	425
City Equipment—Lending—Liability	A. Victor Guarisco	Aug. 18	355

LIBRARIES			
Library Board Members—Non Resident—May Sign Checks	A. J. Cooper, Jr.	Sept. 1	39
LICENSES			
Plumbers Board Authority—Lauderdale County	James F. Putman	July 2	437
Barber Examiners—Authority	Ray McDaniel	July 11	Barber Examiners
LICENSE TAGS			
Mobile Home—License Tags—Enforcement	Charles W. Whatley	July 11	367
Revenue Dept.—Cost of Auto License Plates	Ray Bass	Sept. 27	Highway Dept.
Housing Authority—Vehicles—City Tags	David B. Cauthen	Sept. 14	422
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MADISON COUNTY			
Pistol Permit Fund—Employees Salaries	Billy Hammonds	July 21	435
MARION COUNTY			
Marion County Hospital—Management Contract	C. S. Tidwell	Aug. 2	335
MAYORS			
Water Works Board—Dismissal of Superintendent	N. L. Plunkett	Sept. 28	400
MEDICAL CLINIC BOARDS			
Medical Clinic Boards—Physicians—Funds	Gene L. Hughes	July 13	226
MEDICAL EXAMINERS, BOARD OF			
Board of Medical Examiners—Surplus Funds—Continuing Education	Robert Parker	July 22	Medical Examiners Board

Subject	Addressee	Date	File
MENTAL HEALTH, DEPARTMENT OF			
Mental Health Board—Lease of Land—Northington Campus	Taylor Hardin	Aug. 23	Mental Health
MERIT SYSTEMS			
City of Albertville—Merit System	Jimmy F. Carnes	July 2	299
Calhoun County—Board of Education—Civil Service	Guy Sparks	Aug. 1	392
Merit System Employees—Military Leave	Fred R. Jones	July 28	83
MILITARY DEPARTMENT			
Active Duty—Civilian Pay—21 Days	Henry B. Gray, III	Aug. 17	Military Department
Merit System Employees—Military Leave	Fred R. Jones	July 28	83
MINING AND MINERALS			
Taxation—Mining and Minerals—Severance Tax	Grady Perry	Sept. 27	84
MOBILE, CITY OF			
City of Mobile—Federal Injunction—Mayor	Fred G. Collins	Aug. 23	353
MOBILE COUNTY			
Mobile County—Ad Valorem Exemption—Act 278, 1976 Acts	Ken Malone	Aug. 11	322
Mobile County—Ad Valorem—Constitutional Amendment	Thornton Price-Williams	Aug. 3	254
MOBILE COUNTY RACING COMMISSION			
Mobile County—Racing Commission—Compensation	Maury Friedlander	Sept. 3	91

MOBILE HOMES			
Mobile Home—License Tags—Enforcement	Charles W. Whatley	July 11	367
MONTGOMERY, CITY OF			
City of Montgomery—Retirement System	William L. Oswalt	Sept. 7	401
MORTGAGE TAX			
Mortgage Tax—Debt Extended	John L. Moore	Aug. 4	249
MOTOR VEHICLES			
Traffic Convictions—Microfilming OK	E. C. Dothard	Aug. 26	Public Safety Department
Revenue Department—Cost of Auto License Plates	Ray Bass	Sept. 27	Highway Department
Housing Authority—Vehicles—City Tags	David B. Cauthen	Sept. 14	422
MUNICIPALITIES			
Constitutional Amendment—City Election—Combination	Wade H. Baxley	Aug. 5	312
City of Clayton—Tennis Courts	A. B. Robertson	July 12	318
Bid Law—Garbage Strike—Private Contract	William Noble	Aug. 25	338
City Real Estate—Sale	James E. Arrington	July 12	279
City of Mobile—Federal Injunction—Mayor	Fred G. Collins	Aug. 23	353
Volunteer Fire Dept.—Liability Outside City	A. Victor Guarisco	Aug. 29	355
Unions—Dues Check-off	William M. Flippo	Sept. 1	362
City Contract—Retarded School Children	John Newberry	Sept. 12	231
Street Supt.—Not Public Office	W. W. Rayburn	Sept. 12	325
County Engineer—Subdivision Plat	Michael D. Wilson	Aug. 15	384
Little League—No City Funds	Kern Silvey	Aug. 11	385
City Work—Reimbursement	D. B. Smith	Sept. 14	398
Meals at Meeting—City May Pay	W. R. Payton	Sept. 14	52

Subject	Addressee	Date	File
City of Thomasville—Industrial Development Board	Edmon H. McKinley	July 27	402
Chamber of Commerce—City Contract	William M. Bouldin	Aug. 2	179
Junkyards—Municipal Function	J. H. Summerlin	Sept. 1	420
Solid Waste—City Collection—Adjoining County	James O. Powell	Sept. 21	42
Library Board Member—Non Resident—May Sign Checks	A. J. Cooper, Jr.	Sept. 1	39
Water Works Board—Dismissal of Superintendent	N. L. Plunkett	Sept. 28	400
Water & Sewer Board—Towns	Joseph E. Stumpe	Aug. 1	423
County Funds—Golf Course	H. A. Alexander	Sept. 8	424
Cities—Proprietary Functions—Tort Claims Limit	Gorman R. Jones, Jr.	Sept. 8	425
Town Funds—Industrial Park—Historical Sites	Creel Richardson	Aug. 9	426
City Equipment—Lending—Liability	A. Victor Guarisco	Aug. 18	355
Mayor—Chief Executive	A. J. Cooper, Jr.	Sept. 1	39
Municipalities—Union Dues	Pat Boone	July 30	432
Municipalities—Funds—Zoning	Maurice West	Aug. 11	315
Birmingham, City of—Retirement—Comprehensive Training Act	David Vann	Sept. 14	405
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NATIONAL GUARD			
Active Duty—Civilian Pay—21 days	Henry B. Gray, III	Aug. 17	Military Dept.
NEPOTISM			
Nepotism Law—Sheriffs—Tax Collectors—Officials	Fred B. Simpson	July 13	357

NURSING HOMES			
Act No. 82, 1977 Acts—Nursing Home Contracts	Ira L. Myers	Aug. 25	Public Health
Act No. 81, 1977 Regular Session—Nursing Home Contracts	Ira L. Myers	Aug. 31	Public Health
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OFFICIALS			
Nepotism Law—Sheriffs—Tax Collectors—Officials	Fred B. Simpson	July 13	357
OFFICERS & OFFICES			
Phenix City Councilman—Civil Defense Director	James A. Baker	Aug. 18	329
City of Mobile—Federal Injunction Mayor	Fred G. Collins	Aug. 23	353
City Councilman—Power Company Employee	Paul W. Cole	Aug. 24	360
Board of Education—Office of Profit Discussed	Clifford S. Smith	Aug. 1	298
Street Supt.—Not Public Office	W.W. Rayburn	Sept. 12	325
Mayor—Chief Executive	A.J. Cooper, Jr.	Sept. 1	39
OPINIONS OVERRULED, MODIFIED			
Birmingham Water Works—Water Rights—Cahaba River	Jack E. Ravan	Aug. 9	185
OPTOMETRISTS			
Optometrists—Advertising	Alton L. Turner	Aug. 17	Optometry, Bd. of
ORDINANCES			
City Police Power—County Line	Mrs. David Sconyers	Aug. 12	381
Planning Commission—Zoning Resolution	Doyle G. Hyett	Aug. 26	390

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OUTDOOR RECREATION, BUREAU OF			
County Funds—Golf Course	H.A. Alexander	Sept. 8	424
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PARDONS & PAROLES, BD. OF			
Probationers Upkeep Fund—Parole Bd. Deposits	David H. Williams	Aug. 5	Pardons & Paroles
Pardons & Paroles Board—Salary Increase	David H. Williams	Aug. 9	Pardons & Paroles
Probation & Parole Officers—HB 1134—No Salary Increase	David H. Williams	Aug. 5	Pardons & Paroles
Pardon, Parole and Probation—Conditional Release	David H. Williams	July 4	Pardons & Paroles
Prisons & Prisoners—Consideration of Eligibility for Parole	David H. Williams	Aug. 15	Pardons & Paroles
PARKS			
City of Clayton—Tennis Courts	A.B. Robertson, Jr.	July 12	318
City Real Estate—Sale	James E. Arrington	July 12	279
PENSIONS AND SECURITY, DEPT. OF			
Talladega County—Pensions & Security—Board Member	W. Forrest Killough	July 11	379
PERMITS			
Pistol Permit—Several Pistols	Beason B. Walker	July 5	427
PESTICIDES			
Pesticide Applicators—Certification	McMillan Lane	July 22	Agriculture Dept.

PHENIX CITY, CITY OF			
Phenix City Councilman—Civil Defense Director	James A. Baker	Aug. 18	329
Utilities Board—Bylaws	Jack Blalock	Aug. 17	417
PHYSICIANS			
Board of Medical Examiners—Surplus Funds—Continuing Education	Robert Parker	July 22	Medical Examiners Board
Medical Clinic Boards—Physicians—Funds	Gene L. Hughes	July 13	226
PICKENS COUNTY			
Health Facilities—Pickens Co.—Use of Revenues	Harold Davis	Aug. 11	404
PISTOL PERMITS			
Pistol Permit—Several Pistols	Beason B. Walker	July 5	427
Pistol Permit Fund—Employees Salaries	Billy Hammonds	July 21	435
PLUMBING REGISTRATION			
Plumbers Board Authority—Lauderdale County	James F. Putman	July 2	437
PRICHARD, CITY OF			
Library Board Member—Non-Resident—May Sign Checks	A.J. Cooper, Jr.	Sept. 1	39
Competitive Bid Law—Change Law	A.J. Cooper, Jr.	July 15	39
Work Release Center—Zoning	John Langham	July 15	429
PRISONS & PRISONERS			
Prisoners—Jail Time Credit	Ray Bozeman	July 15	433
Prisons and Prisoners—Consideration of Eligibility for Parole	David H. Williams	Aug. 15	Pardons & Paroles
Counties—Work-release Programs—Prisons and Prisoners	Tom Purvis	July 14	436

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Shelby County—Probate Judge—Personnel Hire	Frank Ellis, Jr.	July 22	307
PSYCHOLOGISTS			
Psychologist—Incorporation	Roger C. Rinn	Sept. 19	Psychology Bd. of Exam.
Psychologists—Psychology, Board of—Practice of Medicine	Roger C. Rinn	July 31	Psychology Bd. of Exam.
PSYCHOLOGY, BOARD OF EXAMINERS IN			
Psychologist—Incorporation	Roger C. Rinn	Sept. 19	Psychology Board of Exam.
Psychologists—Psychology, Board of—Practice of Medicine	Roger C. Rinn	July 31	Psychology Board of Exam.
PUBLIC ACCOUNTANCY, BOARD OF			
Public Accountancy Board—Non Residents	J.G. Robertson	Sept. 8	Public Accountancy Bd.
PUBLIC HEALTH, DEPT. OF			
Act No. 82, 1977 Acts—Nursing Home Contracts	Ira L. Myers	Aug. 25	Public Health
Act No. 82, 1977 Regular Session—Nursing Home Contract	Ira L. Myers	Aug. 31	Public Health
PUBLIC RECORDS			
Voter Records—Responsibility	Sam A. Massingill	July 22	344
PUBLIC SAFETY DEPT.			
Traffic Convictions—Microfilming OK	E.C. Dothard	Aug. 26	Public Safety

PUBLICITY & INFORMATION, BUREAU OF			
Welcome Centers—Leave for Employees	Arthur B. Patton	July 15	Pub. & Information
Tannehill State Parks—Museum	Mary H. Goodwyn	July 8	Pub. & Information
Museum Funds—Tannehill State Park	Mary H. Goodwyn	July 8	Pub. & Information
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REAPPRAISAL			
Reappraisal—Use All Available Information	James A. Carter	Aug. 11	343
Foreign Corporation—Ad Valorem Reappraisal	J. Gorman Houston, Jr.	July 18	428
RECORDERS COURT			
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City of Montgomery—Retirement System	William L. Oswalt	Sept. 7	401
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Purchasing and Accounts—Office Building	David G. Bronner	July 26	Retirement Systems

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Birmingham Water Works— Water Rights—Cahaba River	Jack E. Ravan	Aug. 9	185
ROADS & HIGHWAYS			
County Funds—Cattle Gaps	Billy T. Hughes	Sept. 22	419
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SALARIES			
Blount County—Deputy Sheriff—Salary	Frank Green	Aug. 23	291
Bullock County—Assistant District Attorney Salary	Louis C. Rutland	Aug. 22	383
County Board of Education— Unused Vacation	Don Walker	July 11	389
Capitol Guards—Cadet State Trooper Salary	Fred Jones	Sept. 28	83
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State Pay Raise—Begins 10-7-77	Fred E. Zeigler	Aug. 26	Comptroller
Salaries—District Attorneys— Constitution	John D. Whetstone	Sept. 22	Prosecution Services
Pardons & Parole Bd.—Salary Increase	David H. Williams	Aug. 9	Pardons & Paroles

Teacher Salary Supplements—Freezing Of	Wayne Teague	Sept. 28	Education Department
Cattle Theft Investigators—Peace Officers	McMillan Lane	Sept. 8	Agriculture Department
Act 600—Salary Increase Mandatory	Judson C. Locke, Jr.	Aug. 22	Corrections Board
SALES TAX			
Sales Outside County—Sales Tax	Grady Perry	July 7	84
Taxation—Sales Tax—Exemption for those on Medicare	Bob Glass	Aug. 24	386
SCHOOLS			
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Livingston University—Construction Change Order	Asa N. Green	July 11	119
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Choctaw County—Sheriff—Insurance	Donald Lolley	Aug. 30	358
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State Parks Managers—Subsistence Allowance	John Hodnett	Aug. 17	Conservation
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SURFACE MINING RECLAMATION COMMISSION			
Ethics Commission—Surface Mining Reclamation Commission	Melvin G. Cooper	July 8	Ethics Commission
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TALLADEGA COUNTY			
Talladega County—Pensions and Security—Board Member	W. Forrest Killough	July 11	379
TANNEHILL STATE PARK			
Tannehill State Park—Museum	Mary H. Goodwyn	July 8	Publicity & Information Bureau
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Geneva County—Expired School Tax	Wilbur Pridgen	Aug. 9	333
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Walker County—Legislature—Diesel Tax	Grady Perry	Aug. 11	84

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Taxation—Sales Tax—Exemption for Those on Medicare	Bob Glass	Aug. 14	386
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Teachers—Extra Employment	Paul R. Hubbert	Aug. 11	AEA
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Teacher Salary Supplements—Freezing Of	Wayne Teague	Sept. 28	Education Department
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Tuscaloosa County—Deputy District Attorney—Pay Raise	Wayne Williams	July 22	330

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UNEMPLOYMENT COMPENSATION			
Industrial Relations— Unemployment Compensation	Tom J. Ventress	Aug. 3	Industrial Relations
UNITED STATES			
Municipal Courts—Counsel	George S. Harrington, Jr.	Aug. 17	356
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Utilities Boards—Bylaws	Jack Blalock	Aug. 17	417
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VETERANS			
Vietnam P.O.W.— Children Get State G.I. Bill	Cecil C. Byrd, II	Sept. 21	408
Veterans Affairs—Technical Colleges—Trade Schools	W.W. Wadsworth	Sept. 20	Veterans Affairs
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Boards of Registrars— Voting—Voter Residence	Mrs. Ann Bell	July 25	337
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Voter Records—Responsibility Voting	Sam A. Massingill	July 22	344
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Boards of Registrars—Voting—Voter Residence	Mrs. Ann Bell	July 25	337
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WALKER COUNTY			
Walker Co.—Legislature—Diesel Tax	Grady Perry	Aug. 11	84
County Employee—Tort Judgment Against Walker Co.—Jury Commission Clerk	Grady Perry	Aug. 17	84
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Arrest Warrant—Must Be Original	Mel Bailey	Aug. 17	142
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Birmingham Water Works—Water Rights—Cahaba River	Jack E. Ravan	Aug. 9	185
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Work Release Center—Zoning	John Langham	July 15	429
WORK RELEASE PROGRAM			
Counties—Work-release Programs—Prisons and Prisoners	Tom Purvis	July 4	436
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ZONING			
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Planning Commission—Zoning Resolution	Doyle G. Hyett	Aug. 26	390
Work Release Center—Zoning	John Langham	July 15	429
Municipalities—Funds—Zoning	Maurice West	Aug. 11	315